

# CRS Report for Congress

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## Agricultural Issues in the 109<sup>th</sup> Congress

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### Summary

A number of issues affecting U.S. agriculture have been or are being addressed by the 109<sup>th</sup> Congress. The Deficit Reduction Act of 2005 (P.L. 109-171), enacted in February 2006, included a net reduction in spending on U.S. Department of Agriculture (USDA) mandatory programs of \$2.7 billion over five years, and the reauthorization of a dairy income support program. Other issues of importance to agriculture during the second session of the 109<sup>th</sup> Congress include the consideration of emergency farm disaster assistance; multilateral and bilateral trade negotiations; concerns about agroterrorism, food safety, and animal and plant diseases (e.g., “mad cow” disease and avian flu); high energy costs; environmental issues; agricultural marketing matters; the reauthorization of the Commodity Futures Trading Commission; and farm labor issues. This report will be updated as significant developments ensue.

### Farm Production Support

**Budget and Spending.** Pressure to reduce the federal budget deficit has required Congress to consider reductions in spending on USDA programs. The 109<sup>th</sup> Congress has addressed USDA spending levels on two fronts: in budget reconciliation and in the annual agriculture appropriations bill. The Deficit Reduction Act of 2005 (P.L. 109-171, enacted February 8, 2006) contains net reductions in USDA mandatory spending of \$2.7 billion over five years. Nearly one-half of this reduction was achieved in the measure through a change in the timing of farm commodity payments, and most of the balance consists of cuts to conservation, rural development, and research spending. Separately, Congress has conducted hearings on the FY2007 budget request, which contains legislative proposals for further reducing USDA mandatory spending. (See CRS Report RS22086, *Agriculture and FY2006 Budget Reconciliation*; CRS Report RL32904, *Agriculture and Related Agencies: FY2006 Appropriations*; and CRS Report RS22382, *The FY2007 Budget Request for the U.S. Department of Agriculture (USDA)*.)

**Farm Bill and Commodity Support Programs.** Farm income and price support programs are dictated primarily by Title I of the 2002 farm bill (P.L. 107-171), which expires in 2007. The House Agriculture Committee has conducted several field hearings this year, with more intensive deliberations and markup expected in both

committees in 2007. Two key variables expected to drive the policy debate in the next farm bill are budget limitations and the outcome of pending World Trade Organization negotiations. (See CRS Report RS21999, *Farm Commodity Policy: Programs and Issues for Congress*.)

**Farm Disaster Assistance.** Several major weather events in 2005, particularly Hurricanes Katrina and Rita and a Midwest drought, have caused the 109<sup>th</sup> Congress to consider emergency disaster assistance for farmers this year. In past years, Congress has authorized crop disaster payments and various livestock assistance programs when natural disasters strike. Approximately \$1 billion in agricultural assistance, primarily for the cleanup and rehabilitation of farmland and rural areas affected by hurricanes, was provided in the supplemental attached to the FY2006 Defense Appropriations Act (P.L. 109-148). In April 2006, the Senate Appropriations Committee adopted an amendment to an emergency FY2006 supplemental bill (H.R. 4939), which would provide \$4 billion in crop and livestock assistance and other forms of assistance nationwide. The House-passed version does not contain any farm disaster relief. (For more information, see CRS Report RS21212, *Agricultural Disaster Assistance*.)

**Payment Limits.** Most crop payments are subject to annual per-person limits. Past legislative efforts to reduce the maximum amount of payments that producers can receive have been thwarted by strong opposition from southern cotton and rice growers. In the 109th Congress, S. 385 and H.R. 1590 would reduce payment limits to a total of \$250,000 and count commodity certificates and loan forfeiture toward the limits. A Senate floor amendment to add payment limits to the Deficit Reduction Act of 2005 (P.L. 109-171) failed by a procedural vote of 46-53. The Administration's FY2007 budget request contains a legislative proposal that would tighten crop payment limits. (See CRS Report RS21493, *Payment Limits for Farm Commodity Programs: Issues and Proposals*.)

**Dairy.** The Deficit Reduction Act of 2005 (P.L. 109-171) provided a two-year extension of the Milk Income Loss Contract (MILC) program, which has provided over the past three years more than \$2 billion in direct payments to dairy farmers when farm milk prices are below a specified target level. The program will expire on September 30, 2007. Program extension was supported by the Administration and small- to medium-sized dairy farmers, but generally was opposed by larger dairy farmers because of a limit on eligible annual production. Separately, Congress also completed action on a bill (S. 2120) that will require the regulation of a certain large dairy operation in the West that is currently exempt from paying federally mandated minimum farm milk prices. (See CRS Issue Brief IB97011, *Dairy Policy Issues*.)

**WTO Cotton Case.** In March 2005, a World Trade Organization (WTO) appellate panel ruled against the U.S. in a dispute settlement case brought by Brazil, stating that elements of the U.S. cotton program are not consistent with U.S. trade commitments. In response, Congress included a provision in the Deficit Reduction Act of 2005 (P.L. 109-171) that authorizes the elimination of the Step-2 cotton program on August 1, 2006. In light of this provision, and with the expectation that the additional proposed changes will be fully implemented in an expeditious manner, Brazil has temporarily suspended its pursuit of WTO-sanctioned retaliatory trade measures against U.S. agricultural products. Additional permanent modifications to U.S. farm programs may still be needed to fully comply with the "actionable subsidies" portion of the WTO ruling. Such changes

ultimately would be decided by Congress. (See CRS Report RS22187, *U.S. Agricultural Policy Response to WTO Cotton Decision.*)

**Conservation Programs.** Spending for conservation programs, which help producers protect and improve natural resources on some farmed land and retire other land from production, have grown rapidly since the 2002 farm bill, reaching a total of more than \$5.2 billion in FY2005. This growth in spending reflects the expanded reach of conservation programs, which now involve many more landowners and types of rural lands. Budget pressures forced the 109<sup>th</sup> Congress to weigh the resource and other benefits of these programs against growing costs. The Deficit Reduction Act of 2005 (P.L. 109-171) reduces spending on several mandatory conservation programs by a combined \$934 million over five years. Another topic that continues to attract congressional interest is implementation of the Conservation Security Program, enacted in 2002. Some stakeholders have questioned why USDA has implemented the program in only a few watersheds, and why Congress has limited funding even though the program was enacted as a true entitlement. The agriculture community also is starting to identify conservation issues that might be addressed in the next farm bill. The Senate Agriculture Committee has started to examine selected conservation issues, holding hearings on endangered species and the Conservation Reserve Program. (See CRS Issue Brief IB96030, *Soil and Water Conservation Issues.*)

**Energy.** Although not as energy-intensive as some industries, agriculture is a major consumer of energy — directly, as fuel or electricity, and indirectly, as fertilizers and chemicals. In early September 2005, energy prices jumped to record levels in the wake of Hurricanes Katrina and Rita. By raising the overall price structure of production agriculture, sustained high energy prices could result in significantly lower farm and rural incomes in 2006, and are generating considerable concern about longer-term impacts on farm profitability. Agriculture also is viewed as a potentially important producer of renewable fuels such as ethanol and biodiesel, although farm-based energy production remains small relative to total U.S. energy needs. The energy bill (P.L. 109-58) enacted in July 2005 includes a renewable fuels standard (RFS) for biofuels that grows from 4 billion gallons in 2006 to 7.5 billion gallons in 2012. The RFS, along with tax credit incentives, is expected to encourage significant increases in U.S. ethanol production. (See CRS Report RL32677, *Energy Use in Agriculture: Background and Issues*; and CRS Report RL32712, *Agriculture-Based Renewable Energy Production.*)

## **Agricultural Trade Policy**

Building export market opportunities for U.S. farm products remains a priority for Congress. Some Members of Congress express concern about growing competition from major producers and exporters like Brazil; they note that the U.S. share of world agricultural exports declined from 17% in 1980 to 10% in 2004, according to the WTO. At the same time, the U.S. share of world agricultural imports rose from 8.7% in 1980 to 10.5% in 2004.

**Trade Negotiations.** U.S. trade policy seeks to improve market access for U.S. agricultural products through multilateral, regional, and bilateral trade agreements. U.S. officials also seek to hold countries to commitments made under existing agreements, and to resolve disputes impeding farm exports. The 109<sup>th</sup> Congress passed legislation (P.L. 109-53) to implement the Dominican Republic-Central America-U.S. free trade

agreement (DR-CAFTA) despite strong opposition from the U.S. sugar industry, which fears those countries would gain increased access to the U.S. market. Separately, the Administration is participating in the current Doha round of multilateral trade negotiations and also negotiating new free trade agreements with Panama, the Andean countries, Thailand, and the Southern African Customs Union, among others. (See CRS Report RL32110, *Agriculture in the U.S.-Dominican Republic-Central American Free Trade Agreement*, and CRS Report RL33114, *WTO Doha Round: Agricultural Negotiating Proposals*.)

**Other Trade Issues.** Other ongoing issues of interest to Congress include rules of trade for the products of agricultural biotechnology (see CRS Report RL32809, *Agricultural Biotechnology: Background and Recent Issues*); the scope of restrictions that should apply to agricultural sales to Cuba (see CRS Issue Brief IB10061, *Exempting Food and Agriculture Products from U.S. Economic Sanctions: Status and Implementation*); and funding for U.S. agricultural export and food aid programs (see CRS Issue Brief IB98006, *Agricultural Export and Food Aid Programs*).

## Protecting the Food Supply

**Agroterrorism.** Border inspections have been the first defense against livestock and plant diseases and, more recently, the threat of terrorist attacks against agricultural targets. The agriculture committees remain concerned whether the Department of Homeland Security (DHS, which has jurisdiction over border inspections) is devoting enough attention to agricultural inspections. In the event of an attack, quick and coordinated responses are critical to mitigating the impact. Federal, state, and university agencies are improving their ability to detect and diagnose emerging animal and plant diseases. In the 109<sup>th</sup> Congress, S. 572 and S. 573 seek to improve federal responsiveness to agroterrorism and give additional agricultural biosecurity responsibilities to DHS. S. 1532 would criminalize agroterrorism and improve prevention, detection, and recovery planning. Project Bioshield II (S. 975) addresses agroterrorism countermeasures and interagency coordination. (See CRS Report RL32521, *Agroterrorism: Threats and Preparedness*.)

**Food Safety.** Approximately 76 million people get sick and 5,000 die from food-related illnesses in the United States each year, it is estimated. Congress frequently conducts oversight and periodically considers legislation on food safety and could do so again. Some Members continue to be interested in the control of animal diseases that also threaten human health; the regulation of bioengineered foods, human antimicrobial resistance (which some link partly to misuse of antibiotics in animal feed), and the safety of fresh produce. In the 109<sup>th</sup> Congress, for example, S. 729 and H.R. 1507 propose to consolidate U.S. food safety oversight under an independent U.S. agency. H.R. 3160 and S. 1357 clarify USDA's authority in prescribing performance standards for the reduction of pathogens in meat and poultry products. (See CRS Report RL31853, *Food Safety Issues in the 109th Congress*; and CRS Report RL32922, *Meat and Poultry Inspection: Background and Selected Issues*.)

**BSE.** Bovine spongiform encephalopathy (BSE or "mad cow disease") continues to attract interest, as the seventh North American case (the third in the United States) was confirmed in March 2006. Authorities characterize the risk to human health from these cases as extremely low. However, the beef industry has suffered economically due to

foreign borders being closed to U.S. beef. The 109<sup>th</sup> Congress has held hearings on trade impacts since the first confirmed U.S. BSE case in December 2003. H.Res. 137 and S.Res. 87 call for economic sanctions if Japan does not readmit U.S. beef. Elsewhere, the Senate early in 2005 approved a resolution (S.J.Res. 4) to disapprove a January 2005 USDA rule to reopen the U.S. border to some Canadian cattle imports (the rule also was blocked by a federal judge). A similar House resolution (H.J.Res. 23) was not approved in 2005. Other bills addressing various aspects of BSE include H.R. 187, H.R. 384/S. 108, S. 294, S. 73, S. 135, S. 2002, H.R. 1254, and H.R. 3170. The last two bills require the establishment of a nationwide electronic animal identification system. (See CRS Report RS22345, *BSE ("Mad Cow Disease"): A Brief Overview.*)

**Avian Influenza.** Since 2003, highly pathogenic avian influenza (H5N1) has spread from Asia into Europe, the Middle East, and Africa; however, no cases of H5N1 have been found yet in the United States. Because avian flu is highly contagious in domestic poultry and can be carried by wild birds, on-farm biosecurity is important. Controlling avian flu in poultry is seen as the best way to prevent a human pandemic from developing. Congress responded to the threat by providing an emergency FY2006 supplemental appropriation (in P.L. 109-148) to combat avian flu, including \$91 million for USDA operations. This supplements the regular funding of \$28 million for FY2006, which includes \$15 million in unused funds from prior years. For FY2007, USDA requests \$82 million for avian flu. For more information, see CRS Report RS21747, *Avian Influenza: Agricultural Issues.*

## Marketing

**Country of Origin Labeling (COOL).** Mandatory COOL for fresh meats, produce, and peanuts was scheduled to take effect September 30, 2006. However, the FY2006 Agriculture Appropriations Act (P.L. 109-97) again postpones mandatory COOL for two additional years. Some Members continue to support mandatory COOL, and a few of them would prefer that it take effect sooner (see, e.g., S. 1331) or be expanded to processed meats (see, e.g., S. 135). Others have sought to replace mandatory COOL with voluntary labeling programs. A bill (H.R. 2068) sponsored by the chairman of the House Agriculture Committee (and an identical Senate bill, S. 1333) would make COOL labeling voluntary for fresh meats. S. 1300 would make COOL voluntary for meat, fish, and produce. (See CRS Report 97-508, *Country-of-Origin Labeling for Foods.*)

**Livestock Marketing.** Continuing concentration and other changes in business relationships within livestock markets (such as contractual relationships between producers and processors) have raised concerns about impacts on farm prices and on smaller operations. USDA currently is conducting an in-depth examination of livestock marketing, including issues surrounding proposals to ban packer ownership of animals. Two bills to regulate control of livestock have been offered (S. 818, S. 960). Also, Livestock Mandatory Price Reporting expired on September 30, 2005. It was originally passed in 1999 to address some producers' concerns about low prices, price transparency, and industry concentration. The system generally has found acceptance among industry players. However, a House-passed bill (H.R. 3408) extends reporting for five years with amendments to the hog reporting provisions. A Senate-passed bill (S. 1613) extends it for one year. Voluntary reporting is underway while the two sides attempt to resolve their differences. (See CRS Report RS20079, *Livestock Mandatory Price Reporting*; and CRS Report RL33325, *Livestock Marketing and Competition Issues.*)

**Farm Animal Protection.** Both the Senate- and House-passed versions of the FY2006 agriculture appropriation bill (H.R. 2744) barred use of appropriated funds to pay for ante-mortem inspection of horses for food. The enacted version (P.L. 109-97) makes the funding ban effective only for approximately the last six months of the fiscal year; during this time the three foreign-owned plants in the U.S. that currently slaughter horses, primarily for European and Japanese consumers, are paying user fees for such inspection. Also in the bill, the Senate adopted a floor amendment to prohibit nonambulatory livestock (also called “downers”) from being used for human food, but the amendment was deleted in conference. Other pending bills (S. 1779, H.R. 3931) have the same purpose. (See CRS Report RS21842, *Horse Slaughter Prevention Bills and Issues*; and CRS Report RS21978, *Humane Treatment of Farm Animals: Overview and Issues*.)

## **CFTC Reauthorization**

The Commodity Futures Trading Commission (CFTC) is an independent federal regulatory agency that regulates the futures trading industry. The CFTC is subject to periodic reauthorization; current authority expired on September 30, 2005. Congress traditionally uses the reauthorization process to consider amendments to the Commodity Exchange Act (CEA), which provides the basis for federal regulation of commodity futures trading. The House and Senate Agriculture Committees, with jurisdiction over CFTC, conducted hearings on CFTC reauthorization in March 2005. The full House passed its version of CFTC reauthorization (H.R. 4473) on December 14, 2005. Floor action on a Senate-reported measure (S. 1566) is pending. Among the issues in the debate are (1) the market in security futures, or futures contracts based on single stocks, for which trade has been in much lower volumes than their proponents had hoped; (2) regulation of energy derivatives markets, where some see excessive price volatility and a lack of effective regulation; and (3) the legality of futures-like contracts based on foreign currency prices offered to retail investors. (See CRS Report RS22028, *CFTC Reauthorization in the 109<sup>th</sup> Congress*.)

## **Farm Labor and Immigration Reform**

Hired farmworkers are an important component of agricultural production. Many of these laborers are under guest worker programs, which are meant to assure employers (e.g., fruit, vegetable, and horticulture growers) of an adequate supply of labor when and where it is needed while not adding permanent residents to the U.S. population. The connection between farm labor and immigration policies is a longstanding one, particularly with regard to U.S. employers' use of workers from Mexico. The 109<sup>th</sup> Congress is taking up the issue as part of a larger debate over initiation of a broad-based guest worker program, increased border enforcement, and employer sanctions to curb the flow of unauthorized workers into the United States. House and Senate immigration reform measures (H.R. 4437 and S. 2454) currently being debated have important implications for hired farm labor. Other bills (H.R. 884/S. 359 and H.R. 3857) introduced in the 109<sup>th</sup> Congress specifically address agricultural labor issues. (See CRS Report RL33125, *Immigration Legislation and Issues in the 109<sup>th</sup> Congress*; CRS Report 95-712, *The Effects on U.S. Farm Workers of an Agricultural Guest Worker Program*; and CRS Report RL30395, *Farm Labor Shortages and Immigrations Policy*.)